

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION**

THE KROGER CO.,

Plaintiff,

V.

THE FEDERAL TRADE
COMMISSION, et al.,

Defendants.

Case No. 1:24-cv-00438-DRC

District Judge Douglas R. Cole

**MOTION BY THE STATES OF OHIO, ALABAMA, GEORGIA, IOWA,
LOUISIANA, MONTANA, NEBRASKA, OKLAHOMA, SOUTH
CAROLINA, TENNESSEE, TEXAS, AND WEST VIRGINIA FOR
LEAVE TO FILE *AMICUS* BRIEF**

The States of Ohio, Alabama, Georgia, Iowa, Louisiana, Montana, Nebraska, Oklahoma, South Carolina, Tennessee, Texas, and West Virginia respectfully move for leave to file an *amicus* brief in this matter. This case presents the question whether a scheme in which businesses are subjected to proceedings before an Administrative Law Judge of the Federal Trade Commission violates Article II. The answer is “yes.” Because the *amici* States have a significant interest in defending structural, constitutional boundaries against federal agency actions that stray beyond them, they have a substantial interest in this matter. Accordingly, the *amici* States move for leave to file an *amicus* brief supporting the plaintiffs.

Respectfully submitted,

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/s/ T. Elliot Gaiser
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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2024 a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system.

/s/T. Elliot Gaiser

T. Elliot Gaiser